



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2018-0384; FRL-9994-12-Region 5]

Air Plan Approval; Ohio; Revisions to Particulate Matter Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving assorted revisions to Ohio's particulate matter rules that the state requested EPA approve into the Ohio State Implementation Plan (SIP) under the Clean Air Act. One set of revisions addresses sources subject to a requirement for continuous opacity monitoring for which such monitoring is unreliable. The revisions add two alternatives: one alternative requires the source to conduct continuous emission monitoring, and the other alternative subjects the source to an alternative monitoring plan assessing compliance with limits specified for alternative parameters. Other revisions in the rules remove provisions for facilities that have shut down and make nonsubstantive revisions to the language of the rules.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0384. All documents in the

docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone John Summerhays, Environmental Scientist, at (312) 886-6067 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6067, summerhays.john@epa.gov.

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

- I. Proposed Action.
- II. What Action is EPA Taking?
- III. Incorporation by Reference.

IV. Statutory and Executive Order Reviews.

I. Proposed Action

On June 1, 2018, amended on August 9, 2018, the Ohio Environmental Protection Agency (Ohio) requested SIP approval of a variety of amendments to its regulations in Ohio Administrative Code (OAC) Chapter 3745-17, entitled "Particulate Matter Standards." The most significant revisions in Ohio's rules address requirements for power plants to conduct continuous opacity monitoring, and provide two alternatives in cases where continuous opacity monitors are determined not to provide a reliable assessment of particulate matter control. One of these alternatives is to conduct continuous monitoring of the mass of emitted particulate matter, in which case the measured mass must meet limits specified in the rule. The other alternative is to conduct monitoring of parameters shown to indicate satisfaction of applicable particulate matter control requirements, in which case the source must specify the range of values of these parameters and must achieve this range of values. The amended rules also include more administrative revisions, for example removing sources that no longer operate from the rules.

Ohio's submittal of June 1, 2018 requested action only on the second of the above alternatives, to authorize parameter monitoring in lieu of continuous opacity monitoring in

appropriate cases, and not on the first alternative, involving continuous mass monitoring. However, Ohio amended its request on August 9, 2018, to request approval of both alternatives to continuous opacity monitoring.

EPA proposed to approve the requested revisions on December 11, 2018, at 83 FR 63607. The notice of proposed rulemaking (NPRM) provides a more complete discussion of the revisions that Ohio requested be approved and EPA's evaluation of these revisions.

Ohio excluded selected portions of OAC Rule 3745-17-03, pertaining to opacity requirements, from its request for EPA approval. These provisions were submitted on June 4, 2003, as part of a rule package intended to offer alternative opacity limits for power plants operating continuous opacity monitors. EPA proposed to disapprove these provisions on June 27, 2005, and Ohio withdrew its request for approval of these provisions on September 5, 2014. Accordingly, EPA is not taking action on these provisions.

II. What Action is EPA Taking?

In response to the NPRM, EPA received one comment, which was not relevant to the proposed rulemaking. EPA continues to find that the requested revisions warrant approval, for the reasons given in the notice of proposed rulemaking. Therefore, EPA is approving the requested revisions and is approving the

entirety of all of these rules except for OAC 3745-17-03, for which Ohio excluded specified sections from its request for action. Specifically, EPA is approving amended OAC rules 3745-17-01, 3745-17-03 [except for paragraph (B)(1)(b) and the phrase "Except as provided in paragraph (8)(1)(b) of this rule," in paragraph (B)(1)(a)], 3745-17-04, 3745-17-07, 3745-17-08, 3745-17-09, 3745-17-10, 3745-17-11, 3745-17-12, 3745-17-13, and 3745-17-14. In addition, EPA is removing from the SIP the rule at OAC 3745-17-02, which Ohio has rescinded and the substance of which has been recodified (and approved into the SIP) within OAC 3745-25-02.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Ohio particulate matter rules described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to

approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the

Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on

tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter, Reporting and recordkeeping requirements.

Dated: May 14, 2019.

Cathy Stepp,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1870, the table in paragraph (c) is amended by revising the section entitled “Chapter 3745-17 Particulate Matter Standards” to read as follows:

§ 52.1870 Identification of plan.

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(c) * * *

EPA-APPROVED OHIO REGULATIONS

Ohio citation	Title/Subject	Ohio effective date	EPA Approval date	Notes
* * * * *				
Chapter 3745-17 Particulate Matter Standards				
3745-17-01	Definitions	1/20/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
3745-17-03	Measurement Methods and Procedures	1/20/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	Except for paragraph (B) (1) (b) and the phrase in paragraph (B) (1) (a) reading “Except as provided in paragraph (B) (1) (b) of this rule”.
3745-17-04	Compliance Time Schedules	1/20/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
3745-17-07	Control of Visible Particulate	1/20/2018	[insert date of publication in the	

	Emissions from Stationary Sources		Federal Register], [insert Federal Register citation]	
3745-17-08	Restriction of Emission of Fugitive Dust	1/20/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
3745-17-09	Restrictions on Particulate Emissions and Odors from Incinerators	1/20/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
3745-17-10	Restrictions on Particulate Emissions from Fuel-burning Equipment	1/20/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
3745-17-11	Restrictions on Particulate Emissions from Industrial Processes	1/20/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
3745-17-12	Additional Restrictions on Particulate Emissions from Specific Air Contaminant Sources in Cuyahoga County	1/20/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
3745-17-13	Additional Restrictions on Particulate Emissions from Specific Air Contaminant Sources in Jefferson County	1/20/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
3745-17-14	Contingency Plan Requirements for Cuyahoga and Jefferson Counties	1/20/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
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[FR Doc. 2019-10820 Filed: 5/23/2019 8:45 am; Publication Date: 5/24/2019]